

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Robert Little,)	C/A No.
)	
Plaintiff,)	
)	
Vs.)	
)	NOTICE OF REMOVAL
Lowe's Home Centers, LLC , d/b/a)	
Lowe's Home Improvement)	
)	
Defendant.)	
)	

Defendant, Lowe's Home Centers, LLC ("Lowe's) (incorrectly identified as Lowe's Home Centers, LLC, d/b/a Lowe's Home Improvement), by counsel, hereby removes Case No. 2021-CP-16-00955, from the Court of Common Pleas, County of Darlington, South Carolina, to the United States District Court for the District of South Carolina, Florence Division, pursuant to §§ 1332, 1441 and 1446 of Title 28 of the United States Code.

1. On December 9, 2021, Plaintiff filed a Complaint in the Darlington County Court of Common Pleas.

2. Lowe's, a non-resident defendant, was first served with notice of this action with service of the Summons and Complaint on December 20, 2021, a true and correct copy of which is attached hereto as Exhibit A.

3. The Complaint alleges that Plaintiff was a customer at the Lowe's store located at 19 S. 4th Street, Hartsville, South Carolina, on March 19, 2019, 2019, when he was struck with a forklift operated by a Lowe's employee. *See*, Complaint, at ¶ 8. The Complaint further alleges that, "the impact of the forklift caused Plaintiff to hit the floor, which caused him severe past,

present and future physical, mental and emotional pain and suffering.” Further that “Plaintiff’s injuries are all permanent and ongoing.” *See*, Complaint, at ¶¶ 9 and 10.

4. This Notice of Removal is timely, in accordance with 28 U.S.C. §1446(b)(1), because less than thirty (30) days have elapsed since receipt by Defendant Lowe’s of the first pleading served on Defendant.

5. Pursuant to 28 U.S.C. §1446(a), a copy of all process, pleadings, and orders served upon Lowe’s in said action is attached hereto as Exhibit A.

6. Venue for this removal action is proper pursuant to 28 U.S.C. §1441(a), because the original action was filed in Darlington County, South Carolina, which is within this District and Division, and the alleged incident on which the Plaintiff’s claim is based occurred in this Division, at 19 S. 4th Street, Hartsville, South Carolina. (*See* Complaint, ¶¶ 6, 7, 8, 9).

7. This is a civil action in which there is complete diversity of citizenship between Plaintiff, and Lowe’s. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1441 because it could have been filed in this Court under 28 U.S.C. § 1332.

8. The Plaintiff is a citizen of Chesterfield County, South Carolina. *See*, Complaint, at ¶ 1.

9. Defendant Lowe’s Home Centers, LLC, is, and was, at the time of the filing of the Complaint, a foreign limited liability company whose sole member is a corporation incorporated in North Carolina with its principal place of business in North Carolina. *See*, Defendant’s Answers to Local Rule 26.01 Interrogatories. Accordingly, Lowe’s is not a citizen of South Carolina.

10. Plaintiff alleges that Plaintiff suffered severe past, present and future physical, mental and emotional pain and suffering, as well as loss of income, for which he seeks actual and compensatory damages. *See*, Complaint, at ¶¶ 9 and 22, and prayer for relief.

11. The amount in controversy appears to exceed \$75,000.00. (*See* Complaint, at ¶¶ 9, 22 and prayer for relief). Plaintiff's Complaint contains no limitation of damages, and in fact seeks actual damages as: "the impact of the forklift caused Plaintiff to hit the floor, which caused him severe past, present and future physical, mental and emotional pain and suffering." Further that "Plaintiff's injuries are all permanent and ongoing." *See*, Complaint, at ¶¶ 9 and 10.

12. Pursuant to 28 U.S.C. §1446(d), written notice of such filing will be given promptly to the Plaintiff by the undersigned counsel for Defendant, and copies of this Notice will be filed promptly with the Clerk of Court for Common Pleas for Darlington County, South Carolina.

13. This case is being removed subject to and without waiver of any challenges that Defendant Lowe's may have as to any claims or defenses that may be available to it.

WHEREFORE, because this Court has jurisdiction over this action pursuant to 28 U.S.C. §1332, removal of the above-styled case to this Court is appropriate.

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